

**FOR OFFICE USE ONLY**

CASE NO.: \_\_\_\_\_

DATE SUBMITTED: \_\_\_\_\_

## ZONING BOARD OF ADJUSTMENT APPLICATION

**MINIMUM SUBMITTAL REQUIREMENTS:**

- \_\_\_\_\_ Filing Fee of \$150.00.
- \_\_\_\_\_ Application completed in full.
- \_\_\_\_\_ Additional materials may be required of the applicant such as site plans, elevation drawings, sign details and floor plans. The Zoning Official shall inform the applicant of any extra materials required.

**Date of Preapplication Conference:** \_\_\_\_\_**APPLICANT/PROJECT MANAGER'S INFORMATION (Primary Contact for the Project):**

Name \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip Code \_\_\_\_\_ E-Mail Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

**PROPERTY OWNER'S INFORMATION:**

Name \_\_\_\_\_

Street Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip Code \_\_\_\_\_ E-Mail Address \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

**LOCATION OF PROPERTY:**

Address \_\_\_\_\_

Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision \_\_\_\_\_

Description if there is no Lot, Block and Subdivision \_\_\_\_\_

Action Requested: (Circle One)

Setback Variance

Appeal of Zoning Official's Interpretation

Parking Variance

Special Exception

Sign Variance

Other \_\_\_\_\_

Current Zoning of Subject Property: \_\_\_\_\_

Applicable Ordinance Section: \_\_\_\_\_

# GENERAL VARIANCE REQUEST

The following specific variation from the ordinance is requested:

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This variance is necessary due to the following special conditions:

**Special Condition Definition:** To justify a variance, the difficulty must be due to unique circumstances involving the particular property. The unique circumstances must be related to a physical characteristic of the property itself, not to the owner's personal situation. This is because regardless of ownership, the variance will run with the land.

**Example:** A creek bisecting a lot, a smaller buildable area than is seen on surrounding lots, specimen trees.

**Note:** A cul-de-sac is a standard street layout in College Station. The shape of standard cul-de-sac lots are generally not special conditions.

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The unnecessary hardship (s) involved by meeting the provisions of the ordinance other *than financial hardship* is/are:

**Hardship Definition:** The inability to make reasonable use of the property in accord with the literal requirements of the law. The hardship must be a direct result of the special condition.

**Example:** A hardship of a creek bisecting a lot could be the reduction of the buildable area on the lot, when compared to neighboring properties.

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The following alternatives to the requested variance are possible:

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This variance will not be contrary to the public interest by virtue of the following facts:

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*The applicant has prepared this application and certifies that the facts stated herein and exhibits attached hereto are true, correct and complete.*

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Signature and Title

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Date

## **ZONING BOARD OF ADJUSTMENT RULES AND PROCEDURES**

The Zoning Board of Adjustment hears requests for variances and special exceptions, appeals of Zoning Official's decisions, Airport Zoning Board Adjustments, floodplain and drainage ordinance variance requests, and PITY ordinance special exceptions. The ZBA is a fact-finding body, and to grant variances it must determine the existence of special conditions other than solely financial, which create an undue hardship for applicants. Positive action requires an affirmative vote by at least four (4) of the five (5) members. Recourse from ZBA decisions is to a Court of Law and appeals must be made within ten (10) days of the decision, which become final at Thursday noon after the meeting.

The ZBA shall develop and adopt rules in accordance with State law and City ordinance to govern the ZBA and its meetings.

### **APPLICATION**

- ❖ Any variance request, special exception, appeal of a decision of the Zoning Official or floodplain ordinance variance request shall be preceded by the applicant submitting to the Zoning Official a completed:
  - 1) Application
  - 2) Request Form
- ❖ Applications and request forms are available from the Planning Division Office.
- ❖ The Zoning Official shall assist the applicant in determining the zoning of the tract and in identifying the applicable ordinance section for the application.
- ❖ The applicant shall attach an additional sheet(s) if he cannot fully explain his request in the space provided on the request form.
- ❖ Additional materials may be required of the applicant such as site plans, elevation drawings, and floor plans. The Zoning Official shall inform the applicant of any extra materials required.
- ❖ An applicant shall submit a non-refundable fee of \$150.00, payable to the City of College Station, to defray notification costs. The \$150.00 will be taken when the completed application and request form are submitted.

### **APPEAL OF ZONING OFFICIAL DECISION**

- ❖ Appeals of Zoning Official decisions shall be filed within thirty (30) days of the decision.
- ❖ The ZBA shall hear the appeal within sixty (60) days after the application and request forms are received by the Zoning Official.
- ❖ The ZBA shall decide the appeal within a reasonable time. The ZBA may reverse or affirm wholly or partly, or may modify the order, requirement, or decision, of the Zoning Official by a concurring vote of at least four (4) of the five (5) members.

- ❖ The completed application and request form must be received by the the Planning Office by 10:00 AM on the designated deadline date, which is indicated on the attached Deadline/Meeting Date Information schedule.
- ❖ When the application and request form are received the item will be placed on the next available ZBA Meeting agenda. All required notices will be published.
- ❖ The applicant has the responsibility to verify his item has been placed on a ZBA meeting agenda.

## **NOTICE**

- ❖ The Secretary to the Board shall notify the applicant of the ZBA meeting by certified mail not less than one (1) week prior to the meeting.
- ❖ The Secretary to the Board shall notify property owners within 200 feet of the property for which a request is pending of the ZBA meeting by certified mail not less than (1) week prior to the meeting.
  - ≈ Such owners shall be determined by the Secretary to the Board. When deciding which property is within 200 feet, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property for which a request is pending to the nearest portion of other properties.
  - ≈ Notice by certified mail to such owners shall correspond to the owner's names and address as shown on certified tax roles even if the tax rolls are incorrect or outdated.
- ❖ At the applicant's request, the Secretary to the Board shall notify any interested person of the ZBA meeting by regular mail not less than one (1) week before the meeting.
- ❖ The Secretary to the Board shall place a notice of the ZBA meeting in THE EAGLE two (2) weeks prior to the meeting.

## **MEETING**

- ❖ Robert's Rule of Order, newly revised, shall be followed.
- ❖ Meetings shall be held the first Tuesday of each month at 6:00 PM.
- ❖ Packets for ZBA Members shall be mailed by the Secretary of the Board the Friday before the meeting.
- ❖ Each item before the ZBA must be heard by at least four (4) members.
- ❖ The ZBA may act on any request with or without the applicant's presence at the meeting.
- ❖ When hearing requests, this procedural format shall be followed:
  - ≈ Staff Report

- ≈ ZBA Members ask questions
- ≈ Public Hearing
- ≈ ZBA discussion and action

## **MINUTES**

- ❖ The Secretary to the Board shall tape record all meetings. Tape recordings of meetings shall be kept for three (3) years.
- ❖ Minutes of the meeting shall be typed by the Secretary to the Board in paraphrased form to reflect pertinent points of discussion (in the Secretary's judgement). No transcription will be made.
- ❖ Minutes shall be signed by the Chairman after they are approved by the ZBA.

## **PUBLIC HEARING**

- ❖ Witnesses shall be placed under oath by the Chairman using this statement: "Do you swear or affirm to tell the truth in this proceeding under penalties of perjury?"
- ❖ Witnesses include the applicant and interested persons.

## **MOTIONS**

- ❖ Motions shall be made on the Motion Format Form and be positive or negative.
- ❖ Negative motions (motions to deny a request) should be made when the ZBA finds no special conditions, no undue hardship, or that the spirit of the ordinance will not be preserved.
- ❖ Negative motions which fail do not imply the request is granted.
- ❖ Requests are only granted when a positive motion is passed by at least four (4) ZBA Members. Requests are denied when a negative motion is passed by a majority of members present.

## **REHEARING**

- ❖ Applicants must have the ZBA's approval to present the same or a similar request regarding the same property after denial of such request by the ZBA.
- ❖ When a request is denied, within ten days of the denial, the applicant may request that the ZBA rehear the request at a future date. To make this request, the applicant must submit to the Administrator new information that was previously not available to the Board.
- ❖ Within the ten days, the Administrator will put the request to rehear on the next available ZBA meeting agenda.

- ❖ To decide to rehear a request, the ZBA must determine the information provided by the applicant is new and relevant to their decision point of a hardship(s) as a result of a property's special condition(s). ZBA approval to rehear a request requires a motion to rehear, a second to that motion, and passage by a majority of members present.
- ❖ The determination that information previously not available is relevant to a request's hardship and special condition does not necessarily indicate the eventual approval of a request.
- ❖ If the ZBA approves a request to rehear, the applicant must pay a new fee by an established deadline to be scheduled for a future meeting.

## **APPEAL DECISION**

- ❖ If an applicant wishes to appeal a ZBA decision, he must file a petition with a court of record within ten (10) days after the date the decision is filed in the Planning Division Office.